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NATIONAL SECURITY COUNCIL

EXCISE

June 4, 1994

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MEMORANDUM

TO: Deputy Secretary Talbott

FROM: L - Conrad K. Harper *CKH*  
INM - Robert S. Gelbard *CKH*  
ARA - Michael Skol *CKH*

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.  
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SUBJECT: Deputies Meeting on Forcedown Policies

A Deputies Meeting was held this afternoon at the White House Situation Room to discuss next steps in formulating USG policy regarding aerial interdiction programs in Colombia and Peru. Deputy National Security Adviser Berger chaired the meeting. Participants included Deputy Attorney General Gorelick, Deputy Secretary of Defense Deutch, Deputy Secretary of the Treasury Altman, JCS Vice Chairman Admiral Owens, [ ] and Ricia McMahon, the Chief of Staff for the Office of National Drug Control Policy. Representing State were Under Secretary Tarnoff, Legal Adviser Harper, INM Assistant Secretary Gelbard, and ARA Deputy Assistant Secretary Skol.

At the meeting, DOJ reaffirmed the guidance stated in DAG Gorelick's May 26 letter to Deputy NSA Berger (attached at Tab 1). In addition, DAG Gorelick stated that by June 6th or 7th, DOJ would provide other agencies with a further "framework" document analyzing the legal prohibitions on USG involvement in aerial interdiction programs. There will also be another meeting of general counsel of relevant agencies at 4pm on Monday June 6th, by which time agencies are to report on those activities which they believe can be resumed immediately without violating DOJ's May 26 guidance. [FYI, based a quick review of an inventory received from posts this week, we believe that State Department activities in Colombia do not violate this guidance. Further clarification is required for two programs in Peru.]

Deputy NSA Berger stated his view that we are faced with three options: (1) Attempt to eliminate domestic and international legal impediments to full scale USG participation in the Colombian and Peruvian aerial interdiction programs; (2) Persuade Colombia and Peru to drop their forcedown policies; and (3) Segregate out U.S.-provided real-time and historical intelligence and obtain government-to-government assurances that the segregated information will not be used to effect a forcedown. Meeting participants agreed to set aside the first option for now and State Department representatives opined that the second option was highly unrealistic in the short term and potentially politically volatile.

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Discussion focused on the feasibility of the third option, which was also the subject of an inquiry cabled last night to our Ambassadors in Lima and Bogota (Attached at Tab 2). Specifically, meeting participants considered the possibility of getting adequate assurances from host governments that segregated US-provided information would not be used for a shutdown, which procedures would be used to segregate the information, and how to monitor compliance with such a regime.

There was significant doubt among participants as to the feasibility of segregating this information in such a way as to provide the necessary confidence that our legal requirements were being met. Questions were also raised as to how we could get assurances that would be sufficiently strong to overcome already publicly stated shutdown policies. Discussion concluded with agreement to await responses from our ambassadors and, depending on the nature of those responses, possibly to engage this strategy more formally with the governments of Peru and Colombia. This option will be further discussed at the lawyers meeting on Monday and the next deputies meeting, currently scheduled for Tuesday June 7th.

Deputy NSA Berger also mentioned that he expected an options paper on the forcedown issue, which would include the possibility of changing relevant domestic and international law, would eventually be presented to the President. Finally, it was agreed that Deputy NSA Berger would give a backgrounder to the press on Monday and that representatives from other agencies would participate.

Talking points for your use with members of the Peruvian and Colombian delegations are attached at Tab 3.

Attachments:

- Tab 1 -- May 26 Letter from DAG Gorelick to Deputy NSA Berger
- Tab 2 -- June 3 Cable to Lima and Bogota
- Tab 3 -- Talking Points for use with Peruvian and Colombian Delegations.

cc: Under Secretary Tarnoff

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